IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLIATION NO.1077/06

Shri.Ramnaresh Kanhayyalal Rajput & Ors ..... Applicants (Orig.accd.No.6,8, & 2)

V/s.

The State of Maharashtra .... Respondent

Shri.V.V. Purwant Adv. for the applicants.
Miss.S.D. Shinde APP for the State.

ALONGWITH

CRIMINAL APPLIATION NO.1061/06

Shri.Ramsagar Ramkishore Pal & Ors. ..... Applicants (Orig.accd.No.3,5, & 7)

V/s.

The State of Maharashtra .... Respondent

Shri.V.V. Purwant Adv. for the applicants.
Miss.M.M. Deshmukh APP for the State.

CORAM : V.M. KANADE, J.
DATED : 12/04/06

P.C.:-

1. Heard the learned counsel for the applicants and the learned APP for the State.

2. Both these applications can be disposed of by a common order since the applicants in both these

applications are accused in the same C.R. which has been registered against them at Fouzdar Chawadi Police Station, Solapur. Brief facts are as under:-

3. The applicants were arrested on 11/09/2005 from Vrindavan Lodge, Solapur in connection with C.R.No.203/2005 registered with Fouzdar Chawadi Police Station for the offences punishable U/s.399, 400, 402, 120(B) r/w 34 of IPC and Sec.25 & 27 of Indian Arms Act.

4. The prosecution case is that the complainant Indramani Tripathi was the owner of a Oil Mill at Solapur. Accused Deepu Pal was working in the oil mill as a boiler attendant for almost three years. The owner of the Oil Mill, Indramani Tripathi suspected behavior of his employee Deepu Pal and he had noticed that he had made telephone calls from STD booths and this conversation was over-heard by some persons and on telephone he had informed the persons to whom call had been made to come at appropriate time when he had given the signal. The owner had checked his baggage and had found a card of the said Vrindavan lodge at Solapur. He, therefore, kept watch on the said Deepu

Pal and he was informed that he had visited Vrindavan lodge and met two to three persons who were sitting there. The owner immediately informed his friend Ramesh Gadekar and expressed his suspicion over said Deepu Pal and other persons who were residing in the lodge and he informed him that he apprehended that these people would commit dacoity in the Oil Mill and would cause personal harm to him. Therefore, a complaint was lodged on 11/09/2005 and police sent wireless message and called for police escort at Navi Ves Police Chowky. That after the armed escort arrived belonging to commando force, said raiding party went to the lodge and rang the bail of the door of room No.2 in which applicants and others were found in the room. Accused Ramsagar Pal had a country-made revolver which was loaded with a cartridge. Accused Brijeshkumar Thakur also had a country-made revolver with a live cartridge in its chamber. Accused Ramnivas Yadav had pistol and live cartridge. Other accused had live cartridge with them. On interrogation it transpired that the applicants were from U.P. and had assembled in the lodge for the purpose of committing dacoity in the Oil Mill and to commit

murder of owner. Bail was not granted to the applicants by the Sessions Court.

5. Learned Counsel for the applicants seriously urged that no offence had been committed by the applicants. They were arrested on the basis of suspicious. He submitted that the applicants had a fixed place of residence in U.P. and would not likely to abscond. He submitted that at the highest provisions of Indian Arms Act were attracted to the present case. He submitted that the provisions of Sec.400 of IPC is not made out. Statement of the owner of STD booth had not been recorded. Other co-accused has been released on bail. Version of prosecution case is that owner of the Oil Mill heard telephonic conversation is not believable. He submitted that intention or any knowledge can not be attributed to the applicants and there was absence of mens-rea.

6. It is not possible to accept the submissions made by the Counsel for the applicant. Material which is on record indicates that owner of Oil Mill was vigilant and had promptly taken action. Material on

record indicates that there was close link between employee Deepu Pal and the applicants who were arrested in the Vrindavan Lodge. The visiting card of Vrindavan lodge was found in the belongings of Deepu Pal. He had met six persons in Vrindavan Lodge. Telephonic conversation which was over-heard indicates that there was a proper planning and conspiracy pursuant to instructions of Deepu Pal and the applicants had come armed with weapons. Thus, there is sufficient material on record from which at this stage it indicates that they came to commit dacoity and murder of the complainant Tripathi. The applicants are resident of U.P. If they are released on bail, there is no guarantee that they would face the trial. Under these circumstances, in my view, this is not a fit case for grant of bail. The trial, however, is expedited. Sessions Court is directed to decide the case as expeditiously as possible and in any case within a period of 8 months.

7. The application is accordingly disposed of.

V.M. KANADE J.